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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

QIN CHEN,)	No. C 07-2188 JSW
Petitioner,)	
v.)	
MICHAEL CHERTOFF, Secretary)	ANSWER
of Department of Homeland Security;)	
EMILIO T. GONZALEZ, Director of the)	
U.S. Citizenship and Immigration Services;)	
CHRISTINA POULOS, Acting Director of)	
USCIS, California Service Center; and)	
ROBERT S. MULLER, Director)	
of Federal Bureau of Investigation,)	
Respondents.)	

The Respondents hereby submit their answer to Petitioner's Petition for a Writ of Mandamus to Compel Administrative Action.

1. Paragraph One consists of petitioner's description of his action, to which no response is required.

2. Respondents admit the allegations in Paragraph Two.

JURISDICTION AND VENUE

3. Paragraph Three consists of petitioner's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,

ANSWER
 C 07-2188 JSW

1 respondents deny that this Court has jurisdiction under any of the provisions cited in Paragraph
2 Three.

3 4. Respondents admit the allegations in Paragraph Four.

4 **PARTIES**

5 5. Respondents admit the allegations in Paragraph Five.

6 6. Respondents admit the allegations in Paragraph Six.

7 7. Respondents admit the allegations in Paragraph Seven.

8 8. Respondents admit the allegations in Paragraph Eight.

9 9. Respondents admit the allegations in Paragraph Nine.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 10. Respondents deny the allegations in the first sentence of Paragraph Ten; the respondents
12 lack sufficient information or knowledge to either admit or deny the allegations in the second
13 sentence of Paragraph Ten.

14 **FACTUAL ALLEGATIONS**

15 11. Respondents admit the allegations in Paragraph Eleven.

16 12. Respondents admit the allegations in Paragraph Twelve.

17 13. Respondents admit the allegations in Paragraph Thirteen.

18 14. Respondents are without sufficient information to admit or deny the allegations in
19 Paragraph Fourteen as USCIS generally does not track or interfile status inquiry information in the
20 alien registration file.

21 15. Respondents are without sufficient information to admit or deny the allegations in
22 Paragraph Fifteen as USCIS generally does not track or interfile status inquiry information in the
23 alien registration file.

24 16. Respondents are without sufficient information to admit or deny the allegations in
25 Paragraph Sixteen.

26 17. Respondents are without sufficient information to admit or deny the allegations in
27 Paragraph Seventeen as USCIS generally does not track or interfile status inquiry information in
28 the alien registration file.

1 18. Respondents are without sufficient information to admit or deny the allegations in
2 Paragraph Eighteen as USCIS generally does not track or interfile status inquiry information in the
3 alien registration file.

4 19. Respondents admit the allegations in Paragraph Nineteen, with the exception of
5 petitioner's characterization of the application's transfer to the Nebraska Service Center as "even
6 worse."

7 20. Respondents are without sufficient information to admit or deny the allegations in
8 Paragraph Twenty.

9 21. Respondents deny the allegations in Paragraph Twenty-One.

10 22. Respondents deny the allegations in Paragraph Twenty-Two.

11 23. Respondents deny the allegations in Paragraph Twenty-Three.

12 **CAUSE OF ACTION**

13 24. Respondents incorporate its responses to Paragraph One through Twenty-Three as if set
14 forth fully herein.

15 25. Respondents deny the allegations in Paragraph Twenty-Five. On May 11, 2007, a Request
16 for Evidence (RFE) was mailed to petitioner's attorney of record because of insufficient evidence
17 to support a favorable adjudication. Petitioner has eighty-seven days to respond to the RFE. As of
18 today's date, the Nebraska Service Center has not received a response from petitioner to its RFE.
19 Furthermore, petitioner has a pending a background and security check.

20 26. Respondents deny the allegations in Paragraph Twenty-Six.

21 27. Respondents deny the allegations in Paragraph Twenty-Seven.

22 28. Respondents deny the allegations in Paragraph Twenty-Eight.

23 29. Respondents deny the allegations in Paragraph Twenty-Nine.

24 **PRAYER FOR RELIEF**

25 The remaining paragraph under the heading "prayer for relief" consists of petitioner's prayer
26 for relief, to which no admission or denial is required; to the extent a responsive pleading is
27 deemed to be required, respondents deny this paragraph.

28 **FIRST AFFIRMATIVE DEFENSE**

1 ____Petitioner's complaint fails to state a claim upon which relief may be granted.

2 **SECOND AFFIRMATIVE DEFENSE**

3 The court should dismiss the Petition for Writ of Mandamus for lack for subject matter
4 jurisdiction.

5
6 WHEREFORE, Respondents pray for relief as follows:

7 That judgment be entered for respondents and against petitioner, dismissing petitioner's
8 Petition for Writ of Mandamus with prejudice; that petitioner takes nothing; and that the Court
9 grant such further relief as it deems just and proper under the circumstances.

10 Dated: June 29, 2007

Respectfully submitted,

11 SCOTT N. SCHOOLS
12 United States Attorney

13 /s/
14 EDWARD A. OLSEN
15 Assistant United States Attorney
16 Attorneys for Respondents
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